

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 175 of 1995

with

CRIMINAL MISC. APPLICATION No. 2412 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

NARENDRABHAI ISHWARBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 175 of 1995
MRS MADHUBEN SHARMA for Petitioner
MR SR DIVETIA APP for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR SD PATEL for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT
Date of decision: 21/07/98

ORAL JUDGEMENT

This application under Article 226 of the

Constitution of India has been preferred by the complainant in Criminal Case no. 40 of 1989 pending before the learned Judicial Magistrate, First Class, Vadodara. Petitioner had lodged the above referred complaint before the learned Magistrate against the respondent No. 4-accused for the alleged commission of offence punishable under Sections 420, 406, 463, 464, 465 and 192 of the Indian Penal Code. It is the claim of the petitioner that by producing forged documents, the accused got his name mutated in the revenue records in respect of agricultural lands bearing Survey Nos. 920/1 and 930/2 situated at Ranoli. The said complaint was lodged on 17th August, 1989. The learned Magistrate directed the police to inquiry into the matter under Section 156 (3) of the Code of Criminal Procedure. It appears that pursuant to the inquiry made by the police, police submitted a report to the learned Magistrate and asked for "C" summary. Against the report made by the police, the petitioner had lodged his objections. The said report was not accepted by the Magistrate and under order dated 5th February, 1994, learned Magistrate ordered further inquiry by the police. Even thereafter, the petitioner was summoned by the Investigating Officer for recording his evidence and to call for certain documents. A reminder was sent under communication dated 4th April, 1994. However, petitioner made an application before the learned Magistrate on 17th June, 1994 complaining about the investigation made by the police and requested the learned Magistrate to transfer the investigation to C.I.D (Crimes). On 1st September, 1995, the Investigating Officer informed the learned Magistrate that the complainant was not cooperating in the investigation and that some of the witnesses were living out of station. He, therefore, sought further period of 30 days for completion of the investigation.

2. It is the complaint of the petitioner that inspite of a long period having been lapsed since the learned Magistrate's ordering a police inquiry under Section 156 (3) of the Code, the police has not proceeded further in the matter and has not completed investigation as is expected of it. He, therefore, seeks transfer of investigation to an independent agency. Mr. Divetia has relied upon a report made by the Investigating Officer. However, the said report is of 6th March, 1995 and no further instructions have been received by Mr. Divetia. On perusal of the applications made by the petitioner and orders made thereon, annexed to the petition, it does appear that the investigation by the police under Section 156 (3) of the Code has taken unduly long time. It would, therefore, be expedient that investigation be

entrusted to some other officer.

3. It is, therefore, directed that in the event the Investigating Officer has not yet completed the investigation and has not made a report to the learned Magistrate, the matter may be referred to the District Superintendent of Police, Vadodara {Rural} and he shall within 15 days from the date of reference to him, transfer the investigation to any other Police Station, as he thinks fit. The Police Officer to whom the investigation may be entrusted shall complete the investigation with utmost promptitude.

4. Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs. Registry is directed to sent the writ forthwith.

Prakash*